

Article 6. – FIREWORKS

22-6-1 Definitions. (A) The term "fireworks" shall mean and include any combustible or deflagrating composition, article, or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and previously approved for transportation by the chemical laboratory of the United States department of transportation.

(B) Class C fireworks (common fireworks) means fireworks designed primarily to produce visible effects by combustion. The definition of class C fireworks is based on the definition of the United States department of transportation of common fireworks (code of federal regulations, title 49, para. 173.100(R)). Some small devices designed to produce an audible effect are included, but only when containing two grains or less of pyrotechnic compositions. Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and potassium nitrate (salt-peter) are not considered as designed to produce an audible effect.

(C) Nothing in this regulation shall be construed as applying to toy smoke devices defined as smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of colored smoke (white and black smokes are considered colored); or to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, not applying to the military or naval forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events, nor as prohibiting the firing of sky rockets or missiles when produced by a science class of any school and when under supervision of the science instructor and when the place and time of firing the sky rockets or missiles has been approved by the fire chief. (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-2 Storage, sale, handling. Fireworks to be sold at wholesale shall be stored in a room set aside for the storage of fireworks only. Over the entrance to this room shall be posted a sign reading, "FIREWORKS--NO SMOKING--KEEP OPEN FLAMES AWAY." (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-3 Storage near flammable substances prohibited. Fireworks shall not be sold or kept for sale in a place of business where paints, oils, varnishes, turpentine or gasoline or other flammable substances are kept in unbroken containers, unless in a separate and distinct section or department of the store. (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-4 Fire extinguishers required. Two approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all buildings where fireworks

are sold. Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have a fire extinguisher, or in lieu of the fire extinguisher a barrel of water with at least two buckets, or a loaded water hose with nozzle end within fifteen feet of fireworks stand. (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-5 Sale; days permitted. Any person, firm or corporation shall not sell fireworks to individuals at temporary retail stands or other locations, or deliver retail fireworks purchased by mail order, before the 27th day of June and after the 5th day of July. (Authorized by and implementing K.S.A. 1984 Supp. 31-133; effective Jan. 1, 1973; amended May 1, 1985; amended May 1, 1986.)

22-6-6 Exposure for sale restricted. All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package, and all fireworks kept for sale on front counters must remain in original packages, except where an attendant is on constant duty at all times at counters where such fireworks are on display: *Provided, however,* That fireworks in open stock may be kept in show cases or counters out of reach of the public without an attendant being on duty. Signs reading, "FIREWORKS FOR SALE--NO SMOKING ALLOWED," shall be displayed in the section of the store set aside for the sale of fireworks. (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-7 Permitted fireworks. All pyrotechnic devices classified and labeled as class C fireworks (common fireworks) by the United States department of transportation or interstate commerce commission, under 49 C.F.R. 173.100 (1977), may be sold, manufactured, possessed, transported or otherwise permitted for use in Kansas unless specifically prohibited by law. Prohibited devices may be used for public display purposes as provided for in K.A.R. 22-6-10 and may be possessed and transported by wholesalers and manufacturers for ultimate disposition outside the state. (Authorized by and implementing K.S.A. 31-133; effective Jan. 1, 1973; amended May 1, 1983.)

22-6-8 Storage, sale near gasoline or other stations selling flammable liquids. Fireworks shall not be stored, kept, sold or discharged within fifty (50) feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only. (Authorized by K.S.A. 1972 Supp. 31-133; effective Jan. 1, 1973.)

22-6-9 Discharge of fireworks. A person shall not ignite or discharge fireworks within 1,000 feet of any hospital, sanitarium or infirmary; into, under or on a car or vehicle, whether moving or standing still; or on a public roadway or

the right-of-way adjoining a public roadway. Fireworks shall not be discharged within 50 feet of any retail fireworks stand or facility where fireworks are stored. (Authorized by and implementing K.S.A. 1984 Supp. 31-133; effective Jan. 1, 1973; amended May 1, 1986.)

22-6-12 Illegal fireworks. Fireworks not permitted by the provisions of K.A.R. 22-6-7 shall be illegal to be sold, possessed, manufactured or transported. (Authorized by and implementing K.S.A. 1984 Supp. 31-133; effective Jan. 1, 1973; amended May 1, 1986.)

22-6-13 Illegal fireworks; seizure; disposal. (a) Fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of these regulations shall be subject to seizure by the state fire marshal, any deputy state fire marshal, any law enforcement official, the chief of any organized fire department, whether the fire department is regular or volunteer, or any member of a fire department who has been duly authorized by the chief.

(b) Fireworks seized under this section may be disposed of by summary destruction at any time subsequent to 30 days from the seizure or 30 days from the final termination of proceedings under the provisions of section 22-6-14, whichever is later. (Authorized by and implementing K.S.A. 1984 Supp. 31-133; effective Jan. 1, 1973; amended May 1, 1986.)

22-6-14 Same; petition by owner; determination; order.

(a) Any person whose fireworks are seized under the provisions of section 22-6-13 may, within 10 days after the seizure, submit a written petition to the state fire marshal requesting the return of the fireworks seized upon the grounds that the fireworks were illegally or erroneously seized. Upon the filing of the petition, the state fire marshal shall immediately notify any involved local enforcement agency.

(b) If any petition filed requests a hearing, the state fire marshal or his representative shall hear the person within 30 days after the receipt of the petition. The state fire marshal shall give not less than 10 days written notice of the hearing. The hearing shall be held in accordance with K.S.A. 31-141. The state fire marshal shall file a decision within 15 days after the hearing.

(c) If a hearing is not requested, the state fire marshal shall file his decision within 15 days after the filing of the petition.

(d) Notice of the state fire marshal's decision shall be sent to the petitioner and any involved local enforcement agency.

(e) The state fire marshal may order the fireworks seized under these regulations disposed of, or, if illegally or erroneously seized, returned to the petitioner. (Authorized by and implementing K.S.A. 1984 Supp. 31-133; effective Jan. 1, 1973; amended May 1, 1986.)

22-6-16 Registration of bottle rocket manufacturers and wholesalers. (a) Any manufacturer or wholesaler of bottle rockets who desires to store, handle, possess, or transport bottle rockets in this state for any use outside this state shall register annually with the office of the state fire marshal.

(b) Any person desiring to store, handle, possess, or transport bottle rockets in this state shall complete a registration application furnished by the office of the state fire marshal. This application shall be completed and received by the state fire marshal's office before May 31 of each year. Each registration shall be valid for one year from June 1 to May 31 of the following year. The application shall contain name of applicant, name of business, address of business, description of business activity, destination and disposition of the bottle rockets, and any other information deemed necessary by the state fire marshal. (Authorized by and implementing K.S.A. 31-133, 31-155, 31-156; effective May 1, 1982; amended May 1, 1983.)